



ODC seeks summary judgment on Sayer's FMLA claims because there is no evidence to support a finding that ODC interfered with her FMLA rights or retaliated against her for requesting FMLA leave. I agree. The evidence is conclusive that Sayer was not eligible for FMLA leave, and that she was fired for violating ODC's attendance policy. Sayer even admitted during her deposition that she was not aware of any facts that would show the reason she was terminated was because she asked for FMLA leave.

Although Sayer also admitted during her deposition that she had no evidence she was terminated for filing a Workers' Compensation claim, ODC's motion only requests that the court decline to exercise supplemental jurisdiction over this claim if the FMLA claims are dismissed. I will do so.

Accordingly,

IT IS ORDERED that Defendant's motion for summary judgment (filing 16) is granted, as follows:

1. Plaintiff's second and third causes of action are dismissed with prejudice pursuant to Fed. R. Civ. P. 56.
2. Plaintiff's first cause of action is dismissed without prejudice pursuant to 28 U.S.C. § 1367(c)(3)

September 6, 2005.

BY THE COURT:

*s/ Richard G. Kopf*  
United States District Judge